

REPLY UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER 3736

Remarks

As will be discussed below, considering that these amendments clearly place the application in condition for allowance and do not raise any new issues that would require new searching or consideration by the Examiner, entry of the above amendments is respectfully requested.

Status of All of the Claims

Below is the status of the claims in this application.

1. Claim(s) pending: 33, 35-36, 39-40, 42, 48-51, and 53-67.
2. Claim(s) canceled: 1-32, 34, 37-38, 41, 43-47, and 52.
3. Claim(s) added: 64-67.
4. Claims withdrawn from consideration but not canceled: 35, 36, 42, 48, and 57.

Claim Support

It is believed that new claim 64-67 are commensurate with the previous election and are supported by the application as originally filed. For example, support for these as well as the amended claims can be at least found on page 12-14 of the specification and FIGS. 11-12 of the drawings.

Claim Objections

The claims have been amended in order to address the informalities cited in items 3 and 4 of the Office Action.

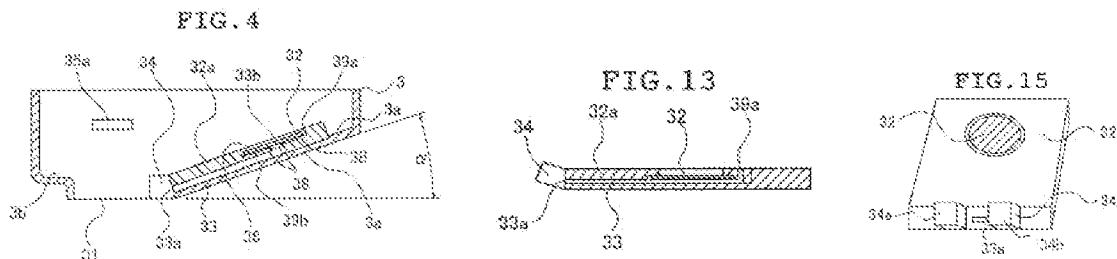
Independent Claim 33

In item 6 of the Office Action, independent claim 33 was “rejected under 35 U.S.C. 102(e) as being anticipated by Nishikawa et al. (US 6,315,738 B1, hereinafter Nishikawa).” Claim 33 has been amended to further specify the location of the sealing member so as to further distinguish claim 33 from Nishikawa. In particular, claim 33 now requires “wherein the sealing member is located on the bottom surface between the first end and the end edge at the second end, wherein the sealing member is made of deformable material that deforms upon pressing against the skin, wherein the sealing member extends along the bottom surface at a location

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where the sealing member is sandwiched between the bottom surface of the test strip and the skin when the test strip is pressed against the skin to inhibit flow of the body fluid between the bottom surface of the test strip and the skin.”

Looking at FIGS. 4, 13, and 15 below, the body fluid guides (34) in Nishikawa cannot correspond to the recited sealing member because the fluid guides (34) are not located on the bottom surface (3a) of the second housing (3) (between the ends) and are not sandwiched between the bottom surface (3a) and skin during fluid collection.



Consequently, Nishikawa does not anticipate claim 33 because it fails to disclose all of the features recited in claim 33 as mended. Therefore, claim 33 and its dependent claims are in condition for allowance.

Independent Claim 40

In item 6 of the Office Action, independent claim 40 was “rejected under 35 U.S.C. 102(e) as being anticipated by Nishikawa et al. (US 6,315,738 B1, hereinafter Nishikawa).” Claim 40 has been amended to further specify the structural aspects of the recessed surface so as to further distinguish claim 40 from Nishikawa. Specifically, claim 40 now requires “wherein the recessed surface extends from the end edge at the second end towards the first end, wherein the recessed surface at the end edge with the inlet opening is located farther away from the skin than the recessed surface at the bottom surface during drawing of the body fluid from the incision.” As can be seen in FIG. 13 of Nishikawa, bottom surface (3a) is flat and does not have any type of recessed surface. In fact, Nishikawa discloses the opposite of what is now recited in claim 40. That is, instead of being located farther away from the skin during fluid collection, the body fluid inlet (33a) in Nishikawa is located close to the skin. As a result, Nishikawa does not disclose the recessed surface as now recited in amended claim 40. Therefore, claim 40 and its dependent claims are in condition for allowance.

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Conclusion

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance, and the Examiner is requested to pass the case to issue. If the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact the undersigned representative by telephone.

Respectfully submitted,

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